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Everyone's Guide to Rent Control

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UNIVERSITY OF CALIFORNIA

City of Berkeley Rent Stabilization Program

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Introduction

In June 1980, Berkeley residents passed the City's first comprehensive rent stabilization law. Its stated purpose is to maintain affordable and quality housing, to preserve the ethnic diversity of the City, and to provide increased protection against eviction.

Most residential rental units in Berkeley are covered by the law. The exceptions apply primarily to units rented under Federal programs or owned by non-profit accredited institutions of higher learning. Under the Ordinance, rental property owners are required to register their units by submitting a completed Initial Registration Statement which lists the rental history of the unit and paying an annual registration fee. The registration fees cover the cost of implementing the Ordinance.

The Rent Board is composed of nine commissioners who are elected to four year terms in general elections held in November of even numbered years. The Board has the power to determine, arbitrate and set rent levels of any unit covered under the Ordinance, and to administer any Berkeley program which regulates rents and evictions.

In order to set rent levels, the Board assigns each rental unit a "base rent ceiling", which in most cases corresponds to the rent charged in that particular unit on May 31, 1980. There are two ways in which this rent ceiling may be modified: Annual General Adjustments (AGAs) and Individual Rent Adjustments (IRAs).

The AGA is intended to compensate the landlord for increases in operating costs and inflation, and is determined every year after at least two public hearings at which the Board takes testimony concerning property owners' increases in operating expenses. The AGA applies to all rental units in compliance and covered by the Ordinance.

In addition to the AGA, property owners may petition for an IRA to compensate for substantial cost increases greater than those covered by AGAs. Tenants who have had housing services reduced or who are being illegally overcharged may also submit an IRA petition to have their rent decreased and/or the rent overcharges refunded.

The Berkeley Rent Stabilization Program publishes this booklet as a public service to help property owners, tenants, Realtors and future property owners understand the Ordinance. This booklet is intended to explain the basic provisions of the law. *It is not a substitute for legal advice.*

Services

Public Information and Housing Counseling

Counseling staff are available at the Rent Stabilization Program's office Monday through Friday from 9:00 a.m. to 4:45 p.m. to provide information about the Rent Ordinance. Staff will answer questions to assist landlords and tenants in filing petitions and understanding Rent Board procedures, *but do not provide advice on legal issues*. Additionally, periodic noon workshops are held to assist tenants and landlords with Rent Board questions. Call the office for dates and times.

Free Brochures and Information

- The current Rent Ordinance
- Landlord/Tenant fact sheet
- The Evictions Process fact sheet
- Security Deposits fact sheet
- Schedule of Annual General Adjustments
- Subletting in Berkeley brochure
- Tenant petitions
- Landlord petitions
- Rent increase notices (for annual increases)
- Requests for Certificates of Permissible Rent Levels
- Median rent data by Census Tract
- Amortization Schedule

Available for consultation

- Rent Stabilization Board Resolutions

Available for purchase

- Rent Board Regulations

Rent Stabilization Program
2125 Milvia Street
Berkeley, California 94704
(510) 644-6128 (510) 644-7703 (Fax) (510) 644-6915 (TTY Deaf Access)

Registration

Which rental properties must be registered?

All residential rental property in Berkeley is covered by the Rent Ordinance unless it is specifically exempted. Properties and rental units which are exempt include:

- Rental units owned by a government agency*
- Licensed transient hotel/motel rooms occupied for less than 14 consecutive days and which are subject to the hotel tax
- Non-profit cooperative housing owned and controlled by a majority of the residents
- Units leased by the Berkeley Housing Authority*
- Rental units in any hospital, skilled nursing facility, health facility, asylum, or non-profit home for the aged
- The rented unit on a two unit property where the other unit is occupied as the principal residence of the owner and one of the two units was owner-occupied on December 31, 1979. (The occupying owner must hold at least a 50% recorded interest in the property).
- A unit which the owner occupies as his or her principle residence and shares kitchen or bath facilities with the tenants. (The occupying owner must hold at least a 50% recorded interest in the property)
- Rental units constructed after June 30, 1980 provided such units were not created by rehabilitation or conversion*
- Non-profit accredited institutions of higher learning whose tenants are faculty, staff or students of the institution, or of a member of a school of the Graduate Theological Union, provided that the institution owned the unit as of January 1, 1988

*Rental properties exempted for these reasons are not exempt from regulations concerning deposits and good cause for eviction.

What is rent registration?

Under the Rent Ordinance, owners of rental property covered by the Ordinance are required to file an Initial Registration Statement which lists the base rent and services provided in the base year for each rental unit on the property and to pay an annual per-unit rent registration fee. The fee is due July 1st of each year and may not be passed on to the tenants without the express, prior approval of the Board.

For a property to be legally registered:

- An Initial Registration Statement for each unit on the property must be completed and on file with the Board
- All registration fees and late registration penalties must have been paid

What happens if a rental unit is not registered?

It is illegal for a rental property owner to increase rents or evict tenants from property that is not legally registered with the Rent Board.

Rental property owners who fail to register their property in a timely manner are ineligible to impose all or part of Board-approved Annual General Adjustments (AGA's) unless they specifically petition the Board for the rent increase.

In addition, failure to pay registration fees on or before July 1st results in a penalty of 100% of the original fee being assessed by the Board. An additional 100% penalty is assessed every six months the registration fee remains unpaid. The Board may administratively waive the penalty if the registration fees are paid within thirty days of the original due date. For later payments, the landlord may request the Board to waive all or part of the penalty if he/she can show good cause for the delinquent payment.

To find out whether a rental unit is registered, contact the Rent Stabilization Program. For a written response, you may file a Request for Registration Information. Tenants who believe a unit or property is not registered or is erroneously being claimed as exempt may file a Petition for Rent Withholding for Non-Registration. A hearing will then be held on the issues of non-registration. If the Board finds that non-registration was knowing and willful, it may authorize the tenant to withhold the rent until the property is registered.

How does a property owner claim exemption from registration?

If a previously registered rental unit becomes exempt from the Rent Ordinance, the property owner must file an Amended Registration Statement with the Board indicating the unit's new exempt status. Unless there is information on the Amended Registration Form indicating that the claim of exemption is made in error, the Board will accept the claim and amend its billing records accordingly. However, if it is subsequently determined that the claim was made in error, the property owner will be liable for unpaid registration fees and possibly late registration penalties. Property owners who wish to obtain a binding determination of the exempt status of their property must specifically request such a determination in writing and pay a filing fee. Following such a request, Board staff will investigate the claim and issue a written determination of whether the unit or property is exempt from the Ordinance. A party who disagrees with the staff determination has various appeal rights to the Board and ultimately to the courts.

Information for New Buyers of Rental Property

Purchasing rental property is an important decision for prospective buyers. Use the checklist below to insure that the property is in compliance with the rent law:

- Before escrow closes, make sure the seller has registered the property with the Rent Stabilization Program and paid the rent registration fees.
- Visit the Rent Stabilization Program office and review the property file. This will provide information about the rent levels, repair problems, registration status and any individual rent adjustment petitions filed by the owner or tenants.
- Make sure all deposits are accounted for and deposited in an interest-bearing account at a savings and loan.

The rent law does not permit increases in the rent to cover increased costs that may result from the purchase of the property, except for property tax increase. In the event the current rental income is not sufficient to cover the new mortgage, the new owner should be prepared to absorb the difference.

The fact that a property is registered does not ensure that the rents are legal. If the seller has not complied with the rent laws and the rents are illegally high, the new owner will be required to lower rents to the legal level and may be required to refund rent overcharges to the tenants. Prospective buyers who are unsure of the legality of the rents in a building should require the seller to obtain a Certificate of Permissible Rent Levels from the Board and should consult an attorney to learn the best way to protect themselves from having to refund any rent overcharges collected by the seller.

All registration fees are due by July 1st of each year. The new buyer is responsible for any unpaid fees which are due on the property on the date of sale. The new owner is also responsible for providing all registration information and the rental history of the property as required by the law.

Rent Level Definitions

Rent level varies with unique situations consequently there are several descriptions below.

How do you calculate the legal rent for a rental unit?

For most rental units, the lawful rent collected on May 31, 1980 is the “base rent”. The base rent may be adjusted by Annual General Adjustments (AGA’s) granted by the Board and by Individual Rent Adjustments (IRA’s) petitions filed by either the landlord or the tenant. Thus, the current lawful rent for a rental unit may be calculated by increasing the base rent for the unit by the AGA’s for which the landlord has been eligible and by adjusting the rent ceiling by any permanent or temporary adjustments which have been granted in an IRA petition.

The exception is three and four unit buildings where one of such units was occupied by the landlord as his/her principal residence on December 31, 1979. In this case the “base rent” shall be the lawful rent collected on **December 31, 1981**.

How do you set the base rent on a unit which was not rented on May 31, 1980?

If the unit was not rented on May 31, 1980 or during the preceding six months, the base rent is set by making a good faith estimate of the median rent in effect for comparable units in the City of Berkeley on **May 31, 1980***. The Rent Board has 1980 median rent data available to assist property owners in making this estimate. In addition to the census tract medians, property owners may locate comparable rental units in the City and review the Board’s property files to learn the May 31, 1980 rent for these specific units. From these rents, the owner may make an estimate of the median May 31, 1980 base rent on units which are comparable to his or her unit. However, in making an estimate based on the rents of specific comparable rental units, a property owner should include enough units in the sample so that it is representative of the comparable units in the applicable census tract and should be mindful not to intentionally omit units which are considered to have average or low rents.

The current lawful rent for units whose base rents are set in this manner is determined by increasing the May 31, 1980 base rent by the AGA’s granted by the Board during the time the unit was not rented and by the 1991 Inflation Adjustment Order.

* All units not rented or previously exempt include condo and single family residents.

What is a certified rent?

In 1987, in compliance with California Civil Code §1947.8, the Rent Board certified the lawful base rent and the annual lawful rent ceilings for each rental unit in Berkeley. The determination of the lawful rents was based on information in the Initial Registration Statements filed by the landlord and on whether the landlord had been eligible for the AGA's granted by the Board. Rents which have been certified as lawful may only be changed upon a showing that an illegal rent was certified as lawful due to the intentional misrepresentation or fraud of the property owner.

In addition to the 1987 certification process, rents which have been determined in an IRA petition which is final and not subject to appeal are also considered to be certified and not subject to change unless the decision was based on some intentional misrepresentation or fraud.

If the rents on a particular unit were not certified in 1987 or an owner or tenant wishes to have the subsequent rent ceilings (1988-present) certified, they may do so by filing a Request for Certificate of Permissible Rent Levels. If the rents have never been certified, there is no fee for this request. If the rents were previously certified, there is a nominal fee.

What is an "Apparent Lawful Rent Ceiling"?

As noted above, the Board grants an AGA to all qualifying landlords effective January 1 of each year. For the convenience of both landlords and tenants, usually on November 15th of each year the Board issues a Notice of Apparent Lawful Rent Ceiling which lists the most recent certified rent for the rental unit and the **apparent** current lawful rent ceiling which is simply the certified rent increased by the subsequent AGA's granted by the Board. Thus, if the rent for a unit was last certified in 1987, the apparent lawful rent ceiling listed in the November 15th Notice would be the 1987 lawful rent increased by the 1988 through 1993 AGA's and the 1991 Inflation Adjustment Order (See below). In issuing the Notice, the Board makes no determination concerning the landlord's eligibility for the 1988-1993 AGA's or the Inflation Adjustment. A tenant who believes his or her landlord is ineligible for any of these adjustments is free to challenge the landlord's eligibility by requesting a Certificate of Permissible Rent Levels or by filing a petition for an Individual Rent Adjustment. (See page 12).

Annual General Adjustment (AGA)

Once each year, the Board grants an AGA by which all eligible landlords may increase the lawful rent ceiling of their rental units to cover increased maintenance costs and to compensate for inflation. Historically, the Board has hired an outside consultant to conduct a survey of the increased maintenance and operating costs which occurred during the preceding year. In addition, the Board conducts at least two public hearings at which it takes testimony and comments on the consultant's report and any other relevant information concerning the proposed AGA. The Ordinance requires that the AGA for the upcoming calendar year be set no later than October 31st of the current year.

Before a landlord may impose an AGA, he/she must be in full compliance with the Ordinance and all orders and decisions of the Rent Board. This means:

- The property has been registered with the Rent Board, i.e., an Initial Registration Statement has been filed and there are no outstanding fees or penalties.
- The rent being charged is no more than the legally allowed rent under the Rent Ordinance
- Interest on deposits has been returned to the tenant(s)
- There are no serious repair problems or notices of housing code violations in the unit
- The tenants have been given at least 30 days written notice of the increase if there is a month-to-month rental agreement. Under a lease, the owner must wait until the lease expires before increasing the rent, unless there is a provision in the lease agreement that allows for an increase
- Notice of the increase has been given using Board-approved forms if required by the AGA Order.

The following AGA's have been granted by the Board since 1981:

| <u>Date & Regulation</u> | <u>% Increase Allowed</u> | <u>Example</u> |
|----------------------------------|--|---|
| 1981 /#1101 | May 31, 1980 Base rent ceiling 5% rent increase, or 6.2% if the owner paid utilities (utilities are defined as gas and electricity; water and garbage are not considered utilities) | \$300.00 <u>+15.00</u> (5%) <u>\$315.00</u> |
| 1982 /#1103 | 9% rent increase; if the rental property owner paid for the unit's gas and electricity, including space heating, the following additional increase was authorized: \$4: studio \$10: 3-bdrm \$7: 1-bdrm \$12: 4-bdrm \$9: 2-bdrm \$16: house w/ 3+ bdrms | <u>+28.35</u> (9%) <u>\$343.35</u> |
| | Owners who deferred their 1982 AGA increases were entitled to an additional 1% for each year the increase was deferred. | |
| 1983 /#1104 | 4.75% rent increase, or 5% if the owner paid for electricity or gas | <u>+17.17</u> (5%) <u>\$361.00</u> |
| 1984 /#1105 | 0% rent increase | <u>\$361.00</u> |
| 1985 /#1106 | 2% rent increase | <u>+7.22</u> (2%) <u>\$368.00</u> |
| 1986 /#1107 | 3% rent increase, plus \$2.50 per month | <u>+13.55</u> (3% + \$2.50) <u>\$382.00</u> |
| 1987/#1108 | 3.5% rent increase | <u>+13.37</u> (3.5%) <u>\$395.00</u> |

| <u>Date & Regulation</u> | <u>% Increase Allowed</u> | <u>Example</u> |
|----------------------------------|--|---|
| 1988 /#1109 | \$25 per month rent increase, or \$15 per month for residential hotels | <u>+25.00</u> <u>\$420.00</u> |
| 1989 /#1110 | 3%, or 3.5% if the owner paid the for the unit's gas or electricity | <u>+14.70</u> (3.5%) <u>\$435.00</u> |
| 1990 /#1111 | \$16 rent increase | <u>+16.00</u> <u>\$451.00</u> |
| 1991 /#1112 | 4%, or \$17 whichever was greater | <u>+18.04</u> (4%) <u>\$469.04</u> |
| 1991 /#1113 | 45% of the lawful rent ceiling on May 31, 1980 | <u>+135.00</u> (45% of 5/31/80 rent) <u>\$604.04</u> |
| | This increase is an Inflation Adjustment Order, not an AGA. It does not apply to units first rented after the regulation was passed in October 1991. | |
| 1992 /#1114 | \$26 rent increase (rounded to nearest \$) | <u>+26.00</u> <u>\$630.00</u> |
| 1993 /#1115 | \$20 rent increase | <u>+20.00</u> <u>\$650.00</u> |
| 1994 /#1116 | \$18 rent increase | <u>+18.00</u> <u>\$668.00</u> |

Individual Rent Adjustment (IRA)

Both tenants and rental property owners can apply for individual adjustments of rent ceilings. The grounds upon which a Tenant IRA petition may be granted are:

- illegally high rent
- failure to provide adequate services, or to comply with Housing, Health, and Safety Codes, or the Rental Agreement
- deterioration of rental unit
- decrease in living space and/or housing services
- reduction in number of tenants allowed in unit
- unpaid interest on security deposit

In lieu of filing an IRA petition, a tenant may file an action in Small Claims Court to recover rent overcharges.

The grounds upon which a Landlord IRA petition may be granted are:

- maintenance of Net Operating Income (fair return)
- capital improvements
- property tax increase
- increase in number of tenants
- change in space or services
- adjustment of base year Net Operating Income
- Historically Low Rent (HLR)
- Restoration of AGAs
- low rent in years 1976-1979
- increased debt service

IRA petitions are available at the Rent Stabilization Program. Once a petition is filed, a hearing date is set and a hearing is held before a Board-appointed Hearing Examiner. At the hearing, both the tenant and the landlord may present evidence to support or oppose the petition. The evidence can be in the form of written documents, photos and testimony from witnesses. Following the hearing, the Hearing Examiner will issue a written decision granting or denying the requested rent adjustment. If either party disagrees with the decision, they may appeal it within thirty days of the date of the decision. All parties to the hearing may represent themselves or may have assistance from attorneys, legal workers, recognized tenant organization representatives, or any other persons designated by said parties.

If the tenant and owner agree on a rent increase/decrease prior to the hearing, they may request a decision without a hearing by completing an Agreement of Parties form. This form is available at the Rent Board and must be completed and signed by both the property owner and the tenant(s). By submitting this request, both parties waive their right to a hearing and an appeal. However, upon demonstration of fraud, misrepresentation, or other similarly compelling reason, either party may request that the Hearings Unit withdraw the agreement and set the matter for hearing. If this request is denied, the party may appeal.

Security Deposits

Under California State Law, property owners may request deposits for cleaning and security. The total amount of the deposit may not exceed two times the monthly rent for unfurnished apartments and three times the monthly rent for furnished apartments. These deposits are the only type of deposits that may be charged by the property owner. For example, non-refundable deposits for pets are illegal. Furthermore, under the Rent Ordinance, property owners may not demand an additional deposit when the rent ceiling is raised. A property owner must wait until a new tenant moves into the unit before demanding a deposit that coincides with the new rent level.

The Berkeley Rent Stabilization and Eviction for Good Cause Ordinance requires property owners to place all deposits in an insured interest bearing account until returned to the tenant(s) or entitled to be used by the property owner. Each December, the property owner is required to return the interest accrued on the deposit to the tenant(s) as a cash payment or rent rebate. Failure to return interest may result in the loss of AGA's and the prohibition of eviction until the situation is corrected.

A landlord who fails to place a tenant's deposit in an insured institution must nevertheless pay interest on the deposits held. The amount of interest paid shall be the **greater** of:

- The passbook rate which would have been paid at an insured institution if the monies had been properly deposited
- The legal rate of interest on unpaid judgments established by the State of California, i.e., 10%
- The interest actually earned by the deposit or payment in the use to which the landlord put the monies

If by January 10th of any year a tenant has not received refund of security deposit interest for the preceding calendar year, the tenant may recover the interest by deducting the amount of interest owed from his rent payment. The amount of interest is calculated at a rate of 10% simple interest per year. However, before deducting the accrued interest from the rent, the tenant must give the landlord fifteen days written notice of his or her intention to do so. The landlord may respond to the notice by paying the interest, at the 10% rate, to the tenant prior to the date that the deduction from rent is to be made.

If a tenant moves out, within two weeks the landlord must:

- 1) Furnish the tenant with an itemized written statement of the basis for, and the amount of, any security the tenant paid to the landlord and the purposes and amounts for which the security was claimed and used; and
- 2) return any remaining portion of the security to the tenant.

Evictions

The Rent Stabilization and Eviction For Good Cause Ordinance lists the specific reasons for which a tenant may be evicted in Berkeley. Only in the event that one of the following conditions exists may a tenant be legally forced to move.

1. The tenant fails to pay rent to which the owner is legally entitled under the rent law unless the rent is being legally withheld.
2. The tenant continues to violate a material term of the rental agreement after being requested in writing to stop the violation.
3. The tenant willfully causes substantial damage to the rental unit or allows such damage to occur, and then refuses to pay or make sufficient repairs after being asked to do so in writing.
4. The tenant refuses to sign a new rental agreement which is substantially identical to the expired one.
5. The tenant, after receiving written notice to stop, continues to disturb the peace and quiet of other tenants and residents.
6. The tenant refuses, after receiving at least 24 hour written notice, to allow access to the rental unit to show it, inspect or make repairs.
7. The rental unit is in need of repairs which are necessary to bring the unit into compliance with the Housing Code and which cannot be made while the tenant lives there. However, the owner must obtain all the necessary work permits before giving the tenant the notice to vacate the unit. Furthermore, if, at the time notice is given or at any time prior to the tenant leaving the unit, the owner has other vacant units in Berkeley, one of these units must be offered to the tenant on a temporary or permanent basis. Finally, the tenant must be given the option to re-occupy the rental unit once the repairs have been completed.
8. The owner has received a permit to demolish the unit.
9. The owner or the owner's spouse, parents, or children wish to occupy the rental unit as their principal residence and there is or was no comparable unit available on the property at the time the owner decided to recover and occupy the unit. However, if a comparable unit was available during the 90 days immediately prior to the date the tenant

was told to move, it will be presumed that this unit was available at the time the owner decided to occupy the tenant's unit. Also, an owner who wishes to evict a tenant for this reason must hold at least a 50% recorded interest in the property.

10. A lessor wishes to move back into a sub-leased unit as permitted in the rental agreement with the current tenant(s).
11. A tenant refuses to vacate temporary housing offered by the owner after the repairs being done on the tenant's prior unit have been completed.
12. A tenant engages in unlawful activity on the premises.
13. A separate "just cause for eviction" exists under State law. For example, state law provides owners with the right to evict their tenants in order to permanently remove their rental units from the market.

Note: The sale of property, the expiration of a rental agreement, or the change in the Federal Section 8 status of a unit do not constitute "good cause" for eviction.

The Eviction Process

If one of the conditions defined as “good cause” for eviction listed above exists, the owner may begin the eviction process. Eviction is a complex legal process. Each step must be followed carefully and the time limits set by the law are critical. **The Rent Board does not provide legal advice to owners or tenants on eviction issues and parties should consider consulting a private attorney before commencing an eviction or in defending an eviction.** Landlords who do not wish to consult an attorney or who want additional general information on evictions should refer to “The Landlord’s Handbook: Evictions” published by Nolo Press of Berkeley. Similarly, tenants who wish to defend an eviction without an attorney should consult “Tenants’ Rights Handbook” which is also published by Nolo Press.

The following is a chronological account of an eviction proceeding:

Eviction Notice

The rental property owner gives the tenant a three or thirty day notice to leave (or, in some cases, to pay rent or comply with the rental agreement). Counting starts the day after the written notice is received by a tenant, and includes weekdays and holidays.

Tenant Opposes the Eviction

A tenant who opposes an eviction should get help from an attorney, legal services agency or tenant group.

Tenant Gives Up Rental Unit

The tenant moves within the time limit given in the notice.

Rental Property Owner Files Complaint with Court

After a three or thirty day notice expires, the owner may file papers with the court requesting that the eviction action continue. These papers are called a Summons and Complaint for Unlawful Detainer.

Court Issues Summons And Complaint

The court issues to the tenant a copy of the Unlawful Detainer. The tenant has five days to file an answer in writing with the court.

Tenant Files Response

Tenant files an answer with the court within five days.

Trial

A date is set for a hearing, either before a judge, or a Judge and Jury. Both tenant and owner appear in court to present their cases.

Rental Property Owner Prevails

Tenant Prevails

The tenant stays in his/her home. Owner pays court costs if so required by the rental agreement

Court Issues Writ of Execution

The tenant may be ordered to pay back rent (if any is due) plus court costs as required by the rental agreement. The court will order the Sheriff to evict the tenant.

Eviction

The Sheriff serves a notice on the tenant to move within five days. If the tenant does not move the sheriff will escort the tenant from the property. The tenant may not return to the property.

Eviction Checklist

In Berkeley, there are certain requirements that must be met before a tenant may be legally evicted.

- The property must be registered with the Rent Stabilization Board: all fees must be paid, registration forms must be complete and all units on the property must be registered.
- The owner must be in compliance with all aspects of the rent law, including charging rents that do not exceed the maximum allowable amount.
- The eviction must be for one of the legal reasons listed in this brochure and the rent law.
- The owner must allege compliance with Sections 8 and 10 of the Rent Law (registration and legal rent levels) for all covered units on the property and compliance with the Warranty of Habitability (no serious repair problems).
- A copy of each eviction notice must be filed with the Rent Stabilization Board within ten days after it is given to the tenant(s).

Regardless of how tenancy was created, property owners must follow State and Local laws when evicting tenants. Failure to follow the legal procedures may entitle a tenant to substantial damages. For example, state law provides civil penalties of up to \$100 a day against owners who turn off utilities. A tenant should contact an attorney, housing counselor or the Rent Stabilization Program if their landlord attempts to:

- force a tenant to move from a property without a court order,
- harass or threaten a tenant,
- remove doors, windows, change the locks or remove a tenant's property from the rental unit without following the necessary legal procedures,
- cut off or deny a tenant use of facilities to force a tenant to move out,
- retaliate against a tenant who requests necessary repairs or who files a complaint with any government agency or who exerts her rights under the rent law or any other laws.

Knowing and willful violation of the eviction law is a serious offense. Tenants who are illegally evicted may sue in court for damages of \$750 or three times the actual damages, whichever is greater. The Rent Stabilization Program possesses legal authority to intervene in eviction cases.

Helpful City of Berkeley Phone Numbers

Rent Stabilization Program

2125 Milvia Street

Berkeley, CA 94704

644-6128

644-6915 (TTY - Deaf services)

City of Berkeley Planning Department

Codes and Inspection Division

2180 Milvia St. (Basement)

Berkeley, CA 94704

644-6830 (Housing Code violations)

City of Berkeley Health Department

2180 Milvia Street (3rd Floor)

Berkeley, CA 94704

644-6510

City of Berkeley Garbage Collection

1328 Allston Way

Berkeley, CA 94703

644-6465

City of Berkeley Fire Department

Fire Prevention Division

2121 McKinley St.

Berkeley, CA 94704

644-6189

Small Claims Court

2000 Center Street (2nd Floor)

Berkeley, CA 94704

644-6303

Rent Stabilization Board Meetings

The Rent Stabilization Board generally schedules meetings on the first and third Mondays of every month at 7:00 pm in the City Council Chambers, 2134 Martin Luther King Jr. Way. The meetings are open to the public and broadcast live by KPFB radio station (89.3 FM). The agendas and minutes of the meetings are available for review at the Rent Stabilization Program office and the Main branch of the Berkeley Public Library. Interested citizens can also subscribe to the agendas and minutes for an annual fee for each publication.

Citizens may participate in the development of Rent Board policies and regulations in several ways. The Board usually schedules public hearings to get input from the community on major issues being addressed by the Board. Any Berkeley resident can speak at a Board meeting by filling out a speaker's request card at the beginning of the meeting. Comments on pending proposals can also be submitted in writing. In addition to public hearings, the Board has a public comment period at the beginning of every meeting.

Appendix

History of Berkeley's Rent Laws

Rents in Berkeley have been regulated since November 1978. Compliance with the current Rent Ordinance depends on compliance with all prior laws. Therefore, some knowledge of the previous laws may be helpful in understanding the current Rent Ordinance. A brief summary of these laws and of the various amendments to the current law follows:

MEASURE I

After the passage of Proposition 13 in June 1978, Berkeley voters passed Measure I to insure that tenants and owners share the property tax savings provided by Proposition 13. Under Measure I, owners were required to rebate 80% of the tax savings to tenants by first rolling rents back to the level charged on June 6, 1978, and then, starting on January 1, 1979, further reducing the rents to reflect 80% of the tax savings. The other 20% was kept by the owner to cover increasing operating costs. Under Measure I, rents could be raised to cover unavoidable increases in operating costs which exceeded the 20% tax savings retained by the owner provided that the owner gave the tenants documentation of the costs, proof that they exceeded the 20% cushion, and 30 days written notice of the rent increase. Retaliatory evictions were prohibited.

ORDINANCE 5212

When Measure I expired at the end of 1979, the Berkeley City Council enacted a temporary rent law, Ordinance 5212. It maintained the provisions of Measure I for a six month period beginning January 1, 1980, except that the maximum rent increase that could be taken during this period was 5% of the lawful rent. In addition, an owner could no longer raise rents because of increased mortgage costs.

MEASURE D

Before Ordinance 5212 expired, Berkeley voters enacted the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance in June 1980. This law is the basis of the current Rent Ordinance, and provided comprehensive rent and eviction controls and required that owners refund interest on cleaning and security deposits and last month's rent. Rent ceilings were set at the legal rent charged on May 31, 1980. This rent ceiling could only be increased in accordance with Annual General Adjustments (AGA's) granted by the Board, or pursuant to Individual Rent Adjustment (IRA) petitions filed with the Board.

MEASURE G

In June 1982, Berkeley voters passed the Tenants Rights Amendments Act of 1982 (Measure G), which amended the Rent Ordinance to increase penalties for non-compliance and to cover previously exempt, owner-occupied three and four unit buildings. Rent ceilings in those buildings were rolled back to the December 31, 1981 level on July 1, 1982. Rents in effect on December 31, 1981 were determined to be the "base rent" for these units.

MEASURE N

In November 1982, Berkeley residents passed Measure N which amended the City Charter to create a nine-member elected Rent Board. Previous Boards had been appointed by the City Council.

MEASURE H

In June 1988, the Rent Ordinance was amended to exempt from coverage rental units owned by nonprofit, accredited institutions of higher education and rented to students, faculty or staff of the institution or of a member of a school of the Graduate Theological Union, provided that the institution owned the unit as of January 1, 1988.

MEASURE I

In November 1988, the Rent Ordinance was amended to eliminate the conflict of interest provision that had prevented Board commissioners who owned residential rental property in Berkeley from participating in making Rent Board decisions concerning the determination of rent levels. Board commissioners were still unable to participate in decisions on individual rent adjustment petitions affecting their own unit(s).

MEASURE G

In June 1990, the Rent Ordinance was amended to change the date annual registration were due from September 1st to July 1st of each year and to reduce the rate at which penalties for non-registration accumulated.

MEASURE F

In November 1990, the Rent Ordinance was amended to include a provision which allowed landlords to evict tenants who were engaging in unlawful activity.

Referral Services

| Organization | Who Served | Fee | Wait For Service | Makes Referral |
|--|----------------------|---------------|----------------------|----------------|
| Alameda County Apt. House Owners 1322 Webster #312 Oakland, CA 94612 (510) 893-9873 | Members only | Yes | No | Yes |
| Alameda County Bar Association 360 22nd #800 Oakland, CA 94612 (510) 893-7100 or (510) 893-8683 | All | Yes | 2-3 days | No |
| Asian Law Caucus 468 Bush St. 3 Fl. San Francisco 94108 (415) 397-1655 | Tenants only | Sliding Scale | 1-7 days | Yes |
| ASUC Renters Assistance Project For Students 309 Eshleman Hall Berkeley, CA 94704 (510) 642-1755 | U.C.B. Students | No | No | Yes |
| Berkeley Black Property Owners Association 1642 Chestnut St. Berkeley, CA 94702 (510) 527-5336 | Members only | Yes | Yes | Yes |
| Berkeley Community Law Center 3130 Shattuck Ave. Berkeley, CA 94703 (510) 548-4040 | Low Income | No | Call for appointment | Occasionally |
| Berkeley Dispute Resolution Service 1769 Alcatraz Ave. Berkeley, CA 94703 (510) 428-1811 | Berkeley Residents | No | No | Yes |
| Berkeley Gray Panthers 1325 Grant St. Berkeley, CA 94703 (510) 527-3790 | All | No | No | Yes |
| Berkeley Property Owners Association 1940 Virginia St. Berkeley, CA 94709 (510) 540-8668 | Members Only | Yes | No | Yes |
| CA State Dept. of Fair Employment & Housing 1330 Broadway #1326 Oakland, CA 94612 (510) 286-4095 | No Restrictions | No | Yes | Yes |
| Housing Rights, Inc. 3354 Adeline St. Oakland, CA 94607 (510) 658-8766 | No Restrictions | No | No | Yes |
| Legal Aid Society 1440 Broadway Oakland, CA 94607 (510) 451-9261 Ext. 650 | Low Income Only | No | No | Yes |
| Legal Assistance for Seniors 1611 Telegraph Ave., #905 Oakland, CA 94612 (510)832-3040 | 60+ Alameda Cty Res. | No | 3-4 days | Yes |
| Tenants Action Project 2022 Blake St. Berkeley, CA 94704 (510) 843-6601 | Tenants Only | Yes | No | No |
| 10th Floor Law Offices 1440 Broadway, Suite. #1000 Oakland, CA 94607 (510) 452-1300 | Tenants Only | Yes | No | Yes |

| Offers Counseling | Offers Repres. in Court | Helps File Legal Papers | Comments |
|-------------------|-------------------------|--|---|
| Yes | No | No | Free to members; owners only fee for membership. |
| Yes | No | No | \$20 fee for 1/2 hour counseling. |
| Yes | Yes | Yes | Bi-lingual Chinese (Cantonese-Mandarin), Tagolog, other referrals for landlords by request |
| Yes | Yes | No | Students |
| Yes | If Needed | If Needed | General meeting every third Wednesday of month, 6:30-8:00 p.m. S. Berkeley YMCA (Russell & California) |
| Yes | Yes | Yes | Mediation services for landlords and tenants; refund of security deposits, etc. |
| Yes | No | No | |
| Yes | No | No | Any person in need; generally seniors. |
| Yes | Yes | No | |
| Yes | No | Yes | |
| Yes | Yes | No | Housing listings and emergency shelter for families with children; no legal counseling. |
| If Needed | If Needed | Cases taken on merit and priority, Intake 10 -11:30 and 2 | Cases taken on merit and priority. Intake 10-11:30 a.m. and 2-3:30 p.m. M-F Outreach office every Weds. from 9 a.m. to noon at the W. Berk Senior Center, 644-6036. |
| Yes | Yes | Yes | Cases taken on merit. |
| Yes | No | No | |
| Yes | Yes | Yes | |

Notes

Notes

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U.C. BERKELEY LIBRARIES



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